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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,168	10/31/2003	Reinhard Hein	LUTZ 2007/10	9090
48116 7590 08/04/2009 FAY SHARPE/LUCENT 1228 Euclid Avenue, 5th Floor The Halle Building Cleveland, OH 44115-1843				
EXAMINER				
WASEL, MOHAMED A				
ART UNIT		PAPER NUMBER		
2454				
MAIL DATE		DELIVERY MODE		
08/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/697,168

Applicant(s)

HEIN, REINHARD

Examiner

MOHAMED WASEL

Art Unit

2454

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 1-5 and 7-21.
Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2454

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been fully considered but are not persuasive.

Applicant argues in substance that:

Duncombe fails to disclose detecting files in the first lists of files that are present in the master system, but missing in the at least one remote system, comparing the first lists of files and filtering out common files to form a second list of files, sending the second list of files to the master system and the at least one remote system and requesting respective calculations of check sums for said common files, receiving said respective check sums, comparing corresponding check sums for said common files; detecting files from the second list of files with different check sums and initiating the transmission of files to be synchronized from the master system to the at least one remote system, wherein the files to be synchronized include files from the second list of files for which different check sums were detected and files from the first lists of files which were detected as missing from the at least one remote system.

In response to arguments:

Examiner respectfully disagrees. Applicant is reminded that claims must be given their broadest reasonable interpretation. Duncombe discloses a method of synchronizing files between a client computer and a server computer by establishing communication between a client and a server for at least one file found on both said client and said server, comparing at least one bit of a file as found on said client with at least one bit of said file as found on said server and if at least one bit of the instance of said file as found on said client is not the same as at least one bit of the instance of said file as found on said server, then determining which instance of said file has specified characteristics and transferring the instance of said file with said specified characteristics to the client not having that instance of said file (Paragraph [0025]). Furthermore, Duncombe discloses file synchronizing transfers is based on checksum comparisons by using either: simple checksums that compare entire instances or versions of the subject file on different servers or by more advanced checksums that by identifying the binary differences between targets effectively compare only portions or bits of the subject file to determine which portions or bits of the subject file have changed, then transferring only the altered or different bits between computing devices according to the desired outcome. However, in executing advanced checksum comparisons, the subject files may be organized for analysis into various fixed-size segments or portions such that where the subject file is smaller than the selected segment size, then the entire subject file will be transferred as it would have been according to a simple checksum configuration (Paragraph [0022], [0053]). Therefore, Duncombe meets the scope of the claimed limitations as currently presented. Examiner believes that amendment to the claims to explicitly distinguish the claimed subject matter and clearly define the scope of the claimed invention would possibly overcome art in record.